

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
In re	:
	:
Orly Genger,	:
	:
	:
Debtor.	:
-----X	

Chapter 7
Case No. 19-13895 (JLG)

DECLARATION OF MICHAEL PAUL BOWEN

1. I am a partner with the law firm Glenn Agre Bergman & Fuentes LLP, legal counsel to debtor Orly Genger, and I submit this declaration in support of Debtor's Objection (the "Objection") to Creditor Sagi Genger's Amended and Updated Motion to Dismiss, filed on April 24, 2020 (Doc 239). I am fully familiar with the facts recounted herein based on personal knowledge or my review of publicly filed documents. On that basis I submit this declaration to identify and submit the documents and materials cited as exhibits to the Objection. Certain materials are being filed under seal, as will be indicated on the ECF system.

2. In the accompanying Objection, Debtor responds to each of movant's material and pertinent arguments. Nothing in the Objection may be construed as conceding anything in movant's motion to dismiss, and the fact that any particular claim or assertion by movant in his motion is not expressly addressed in the Objection is not and may not be construed as any admission or concession by debtor. Debtor hereby denies and refutes all of movant's claims as either materially false, intentionally misleading, impertinent, and/or irrelevant to the legal and fact issues germane to the motion to dismiss and the dispute among the parties.

3. Exhibit 1: is a true and accurate copy of the transcript of the motions hearing before the Hon. Tony M. Davis, U.S. Bankr. Court, Western District of Texas, Austin Division, dated October 23, 2019.

4. Exhibit 2: is a true and accurate copy of excerpts from the February 7, 2013 deposition transcript of Dalia Genger.

5. Exhibit 3: is a true and accurate copy of the Divorce Stipulation of Settlement by and between Dalia Genger and Arie Genger, dated October 26, 2004.

6. Exhibit 4: is a true and accurate copy of the Final Arbitration Award dated May 6, 2008, as entered in *Dalia Genger v. Arie Genger*, No. 13 170 Y 00996 07, American Arbitration Association, Commercial Arbitration Tribunal, New York City.

7. Exhibit 5: is a true and accurate copy of the Genger Litigation Trust Agreement, dated June 28, 2012.

8. Exhibit 6: is a true and accurate copy of the AG Group and Trump Group Settlement Agreement and Release, dated June 16, 2013.

9. Exhibit 7: is a true and accurate copy of Credit Agreement between Arie Genger and ADBG LLC, dated as of September 19, 2008, and the amendments thereto.

10. Exhibit 8: is a true and accurate copy of First Amendment to Credit Agreement, dated as of March 2, 2012, by and between Arie Genger and ADBG LLC.

11. Exhibit 9: is a true and accurate copy of the Secured Promissory Note, dated December 30, 2016.

12. Exhibit 10: is a true and accurate copy of the \$5.37M Amended and Consolidated Secured Promissory Note, dated December 31, 2016.

13. Exhibit 11: is a true and accurate copy of an excerpt of the transcript of the April 29, 2014 hearing before Hon. John F. Keenan in *TPR Investment Assocs., Inc. v. Pedowitz & Meister LLP*, Case No. 13-cv-8243 (S.D.N.Y.).

14. Exhibit 12: is a true and accurate copy of excerpts of the transcript of the August 3 and 4, 2016 hearings before Hon. Ira Gammernan in *Orly Genger v. Dalia Genger, et al.*, Index No. 109749/2009 (N.Y. Sup. Ct., N.Y. Cnty.).

15. Exhibit 13: is a true and accurate copy of the letter agreement between Sagi Genger and Dalia Genger, dated October 30, 2004 (the “2004 Promise”).

16. Exhibit 14: is a true and accurate copy of the indemnity agreement between Sagi Genger and Orly Genger, dated November 10, 2004 (the “2004 Indemnity”).

17. Exhibit 15: is a true and accurate copy of excerpts of the transcript of the January 8, 2019 hearing before Hon. Debra C. Freeman (in S.D.N.Y. Case No. 17-cv-8181-VSB).

18. Exhibit 16: is a true and accurate copy of debtor’s petition schedules, including Global Notes, Methodology and Specific Disclosures Regarding The Debtor Schedules Of Assets And Liabilities and Statement Of Financial Affairs, filed by Orly Debtor in this action on August 8, 2019 at ECF No. 20.

19. Exhibit 17: is a true and accurate copy of excerpts from the transcript of the May 19, 2021 deposition of Michael Oldner in this bankruptcy action.

20. Exhibit 18: is a composite exhibit including (i) a true and accurate copy of the complaint filed by Dalia Genger against Sagi Genger and (ii) the Agreed Final Judgment; both filed in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County Florida, Case No. 2017-010614-CA-01, on December 20, 2019 and ordered on February 3, 2020, respectively.

21. Exhibit 19: is a true and accurate copy of the OGT’s Release of Sagi Genger and Elana Genger, dated August 15, 2019.

22. Exhibit 20: is a true and accurate copy of OGT's Release of Dalia Genger, dated August 15, 2019.

23. Exhibit 21: is a true and accurate copy of OGT's Release of David Parnes, dated August 15, 2019.

24. Exhibit 22: is a true and accurate copy of OGT's Release of TPR and D&K, dated August 15, 2019.

25. Exhibit 23: is a true and accurate copy of excerpts from the transcript of the July 15, 2020 deposition of Sagi Genger in this action.

26. Exhibit 24: is a true and accurate copy of excerpts of the transcript of the June 25, 2020 deposition of Michael Oldner.

27. Exhibit 25: is a true and accurate copy of the Inter-Creditor Agreement, dated as of June 6, 2019, by and among the Orly Genger 1993 Trust, Recovery Effort Inc., Sagi Genger, TPR Investment Associates, Inc., Manhattan Safety Company Ltd., Manhattan Safety Maine, Inc., and Emmer, Marvin & Martin LLP.

28. Exhibit 26: is a true and accurate copy of the Premarital Agreement made by Orly Genger and Eric Herschmann, executed on May 14, 2016.

29. Exhibit 27: is a true and accurate copy of excerpts of the transcript of the August 17, 2020 deposition of Orly Genger in this action.

30. Exhibit 28: is a true and accurate copy of the Deed of Trust, dated September 17, 2018.

31. Exhibit 29: is a true and accurate copy of the Orly Genger 1993 Trust Proof of Claim 12-1 filed in this action, attaching Amended Petition for Turnover of Property and Other Relief, filed in Surrogate's Court Action, Index No. 2008-0017/E.

32. Exhibit 30: is a true and accurate copy of the wire transfer confirmation related to the transfer of \$2 million to Kasowitz Benson Torres LLP.

33. Exhibit 31: is a true and accurate copy of financial records from the law firm Kasowitz Benson Torres LLP entitled, “Orly Genger - Consolidated Billings and Payments through March 2019.”

34. Exhibit 32: is a true and accurate copy of publicly available Parcel Detail Report for Michael Oldner, available at www.ARCountyData.Com, accessed on May 28, 2021.

35. Exhibit 33: is a true and accurate copy of June 10, 2019 email from Michael Oldner to Sagi Genger, forwarding June 6, 2019 email with attachments from Sonja Aguayo (saguayo@corpnet.com) re Completed Filing for Recovery Effort Inc. – AR.

36. Exhibit 34: is a true and accurate copy of the Affirmation of John Dellaportas on Behalf of Sagi Genger and the Sagi Trust, in Support of and Joining Dalia Genger’s Motion to Substitute and for Payment into Court, dated February 13, 2015, and filed in the 2010 Action at NYSCEF Doc. No. 1229.

37. Exhibit 35: is a true and accurate copy of excerpts of the transcript of the June 29, 2020 deposition of Arie Genger in this action.

38. Exhibit 36: is a true and accurate copy of Dalia Genger’s Responses to Chapter 7 Trustee’s Requests for Admission, dated June 17, 2020.

39. Exhibit 37: is a composite exhibit consisting of true and accurate copies of three doctor letters concerning Dalia Genger and filed under seal in this action.

40. Exhibit 38: is a true and accurate copy of doctor letters concerning Dalia Genger, dated September 20, 2019 and October 25, 2019.

41. Exhibit 39: is a true and accurate copy of the letter agreement between Sagi Genger, Robin Rodriguez and Michael Oldner clarifying calculation of amounts owed under the Inter-Creditor Agreement, dated July 14, 2019.

42. Exhibit 40: is a true and accurate copy of the Affidavit of Dalia Genger, dated February 20, 2015, filed in N.Y. Sup. Ct. N.Y. Cnty., Index No. 651089/2010 at Dkt. 1242.

43. Exhibit 41: is a true and accurate copy of emails with attachments between E. Herschmann, L. Harris, et al. re drafting of the \$2M promissory note, dated January 24, 2017 through May 25, 2017.

44. Exhibit 42: is a true and accurate copy of the Stipulation and Order of Dismissal, by and between the Trump Group, TPR Investment Associates, Inc., and Dalia Genger, as Trustee of the Orly Genger 1993 Trust, so ordered on August 30, 2013, in the Court of Chancery of the State of Delaware (Case No. 6906-CS).

45. Exhibit 43: is a true and accurate copy of the Assignment dated June 13, 2019, by and between Dalia Genger, as Sole Trustee of the Orly Genger 1993 Trust, and Dalia Genger, as Sole Director of Recovery Effort Inc.

46. Exhibit 44: is a true and accurate copy of Claim No. 12 filed by the Orly Genger 1993 Trust in this chapter 7 action.

47. Exhibit 45: is a true and accurate copy of the Decision, dated June 21, 2017, entered in the New York County Surrogate's Court (Index No. 2008-0017/E).

48. Exhibit 46: is a true and accurate copy of the email, dated June 30, 2013, from Thomas J. Allingham II to John Dellaportas.

49. Exhibit 47: Intentionally Omitted.

50. Exhibit 48: is a true and accurate copy of the Decision and Order, dated March 25, 2019, filed in the 2009 Action at NYSCEF Doc. No. 1594.

51. Exhibit 49: is a true and accurate copy of the Notice of Appeal, dated April 26, 2019, filed in the 2009 Action at NYSCEF Doc. No. 1596.

52. Exhibit 50: is a true and accurate copy of the Orly Genger 1993 Trust Instrument of Resignation of Trustee and Appointment of Successor Trustee and Instrument of Acceptance of Trustee, dated June 12, 2019 and June 14, 2020, respectively.

53. Exhibit 51: is a true and accurate copy of the letter dated June 17, 2019, by The Bachman Law Firm PLLC, on behalf of Dalia Genger, regarding the 2013 Settlement Agreement with Trump Group and AG Group.

54. Exhibit 52: is a true and accurate copy of certain financial records related to the \$17,257,001 of additional consideration paid in early July 2013 by a Trump Group entity.

55. Exhibit 53: is a true and accurate copy of Claim No. 5 filed by ADBG LLC in this chapter 7 action.

56. Exhibit 54: is a true and accurate copy of Claim No. 6 filed by the Genger Litigation Trust in this chapter 7 action.

57. Exhibit 55: is a true and accurate copy of Claim No. 2 filed by Arie Genger in this chapter 7 action.

58. Exhibit 56: is a true and accurate copy of certain ADBG LLC financial records.

59. Exhibit 57: is a true and accurate copy of Claim No. 13 filed by Kasowitz Benson Torres LLP in this chapter 7 action.

60. Exhibit 58: is a true and accurate copy of Claim No. 4 filed by Eric Herschmann in this chapter 7 action.

61. Exhibit 59: is a true and accurate copy of Claim No. 14 filed by Sagi Genger in this chapter 7 action.

62. Exhibit 60: is a true and accurate copy of Claim No. 9 filed by Dalia Genger in this chapter 7 action.

63. Exhibit 61: is a true and accurate copy of a General Warranty Deed dated October 27, 2016.

64. Exhibit 62: is a true and accurate copy of movant's Reply addressing the motions to dismiss the adversary proceeding in this chapter 7 action encaptioned, *Dalia Genger v. Orly Genger*, Adv. P. No. 20-01010-jlg.

65. Exhibit 63: is a true and accurate copy of the transcript of the March 19, 2021 hearing before this Court in this action.

66. Exhibit 64: is a true and accurate copy of a June 17, 2019 email chain, June 25, 2019 letter motion, and June 26, 2019 so-ordered stipulation in connection with a briefing schedule extension related to Sagi Genger's Motion for Turnover of Promissory Notes and Funds from Garnishees and Rescission of Fraudulent Conveyance, filed in S.D.N.Y. Case No. 17-cv-8181-VSB.

67. Exhibit 65: is a true and accurate copy of a compilation of two satisfactions of judgment, filed in S.D.N.Y. Case No. 14-cv-5683-KBF on March 27, 2018 and March 28, 2018.

68. No prior request for the relief sought in the accompanying Objection has been made by Debtor to this or any other court.

In accordance with 28 U.S.C. § 1746 I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 1, 2021

/s Michael Paul Bowen

CERTIFICATION OF SERVICE

I hereby certify that the foregoing Declaration of Michael Paul Bowen, dated May 31, 2021, has been filed electronically on this 1st day of June 2021, and notice will be sent by operation of this Court's ECF system to all counsel of record for the parties as indicated on the electronic filing receipt.

/s Michael Paul Bowen